

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Jorg G. Schleicher et al.

Examiner: Fadey S. Jabr

Serial No. 09/963,812

Art Unit: 3628

Filed: 09/26/2001

For: **METHOD AND SYSTEM FOR GENERATING REVENUE IN A PEER-TO-PEER
FILE DELIVERY NETWORK**

Mail Stop Appeal Brief – Patents

Commissioner for Patents

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Sir:

A **REPLY BRIEF** is filed herewith in response to the Examiner's Answer mailed February 27, 2007. If any fees are required in association with this Reply Brief, the Director is hereby authorized to charge them to Deposit Account 50-1732, and consider this a petition therefor.

REPLY BRIEF

A. Introduction

In addition to the reasons detailed in the Appeal Brief filed on December 6, 2006, the Appellants respectfully submit that claims 1-27 are patentable over *Ricci* in view of *Ferguson* and further in view of the *Appellants' Related Art* for the reasons set forth below. In particular, none of the references, either alone or in combination, discloses or suggests all the features recited in claims 1-27. As such, these claims are patentable.

B. Argument

Claims 1-6, 9-14, 17-22, 26, and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Ricci* in view of *Ferguson*. The Appellants traverse the rejection.

According to Chapter 2143.03 of the M.P.E.P., in order to “establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” The Appellants submit that neither *Ricci* nor *Ferguson*, either alone or in combination, discloses or suggests all the features recited in claims 1-6, 9-14, 17-22, 26, and 27. More specifically, claim 1 recites a method for generating revenue in a peer-to-peer file delivery network comprising, among other features, “periodically sending the subscription-based content to each respective subscribing client node.” Claims 17 and 26 include similar features. The Appellants submit that none of the references, either alone or in combination, discloses or suggests periodically sending subscription-based content to a subscribing client node. In maintaining the rejection, the Patent Office asserts that *Ricci* discloses this feature at paragraph [0040].¹ The Appellants respectfully disagree. At most, the cited portion of *Ricci* discloses that during the transfer of digital media, a network acts like a peer-to-peer network without requiring a central server.² However, no mention is made or suggested of periodically sending subscription-based content to a subscribing client node. Furthermore, the Appellants have reviewed the remainder of the reference and submit that nowhere does *Ricci* disclose or suggest this feature. Likewise, the Appellants have reviewed *Ferguson* and submit that *Ferguson* does not disclose or suggest periodically sending subscription-based content to a subscribing client node. Accordingly, for at least this reason, claims 1, 17, and 26 are patentable over the cited

¹ See Final Office Action mailed March 8, 2006, page 6.

² See *Ricci*, paragraph [0040].

references. Similarly, claims 2-6 and 18-22, which ultimately depend from claims 1 or 17, respectively, are patentable for at least the same reason along with the novel features recited therein.

Claim 9 recites a system for generating revenue in a peer-to-peer file delivery network comprising, among other features, “means for enabling decentralized downloads of subscription-based content that client nodes of the multiple client nodes subscribe to in order to receive periodic updates.” Claim 27 includes similar features. The Appellants respectfully submit that none of the references, either alone or in combination, discloses or suggests a means for enabling downloads of subscription-based content in order to receive periodic updates. As detailed above, none of the references, either alone or in combination, discloses or suggests periodically sending subscription based content to a subscribing client node. Therefore, it follows that neither reference, either alone or in combination, can disclose or suggest receiving periodic updates nor a means for enabling downloads of subscription-based content in order to receive periodic updates. As such, claims 9 and 27 are patentable over the cited references. Similarly, claims 10-14, which ultimately depend from claim 9, are patentable for at least the same reasons along with the novel features recited therein.

In addition, claims 7, 8, 15, 16, and 23-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Ricci* in view of *Ferguson* in further view of the *Appellants’ Related Art*. The Appellants traverse the rejection.

Claim 25 recites a method for providing subscription-based decentralized file downloads to client nodes in a peer-to-peer public network comprising, among other features, “periodically delivering the particular content files to respective clients nodes that subscribed to the particular content files.” As detailed above, neither *Ricci* nor *Ferguson*, either alone or in combination, discloses or suggests periodically delivering content files to clients that subscribed to the particular client files. In addition, the *Appellants’ Related Art* does not disclose or suggest this feature. Accordingly, claim 25 is patentable over the cited references.

Regarding claims 7, 8, 15, 16, 23, and 24, as detailed above, claims 1, 9, and 17, the base claims from which claims 7, 8, 15, 16, 23, and 24 ultimately depend, are patentable over *Ricci* and *Ferguson*. Moreover, as mentioned above, the *Appellants’ Related Art* does not overcome the previously noted shortcomings of both *Ricci* and *Ferguson*. Therefore, claims 7, 8, 15, 16, and 23-25 are patentable over the cited references.

C. Conclusion

As detailed above, none of the cited references, either alone or in combination, discloses or suggests periodically sending or receiving subscription-based content to a subscribing client node. Therefore, claims 1-6, 9-14, 17-22, 26, and 27 are patentable over *Ricci* in view of *Ferguson* and claims 7, 8, 15, 16, and 23-25 are patentable over *Ricci* in view of *Ferguson* and further in view of the *Appellants' Related Art*.

Respectfully submitted,

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